

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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WJ GRAIN LTD,

Plaintiff,

09 CV 5556 (RPP)

-against-

OPINION AND ORDER

UNION COMPANY FOR IMPORT-EXPORT
AND COMMERCIAL AGENCIES,

Defendant.

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ROBERT P. PATTERSON, JR., U.S.D.J.

Defendant Union Company for Import-Export and Commercial Agencies moves to vacate the maritime attachment order obtained by Plaintiff W.J. Grain Ltd. asserting that the underlying arbitration is based on breach of a settlement agreement between the parties and not on the underlying maritime contracts for the ocean shipment of Russian Wheat.

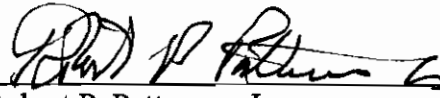
It is clear from the email dated May 26, 2009 to Defendant from Hammonds LLP that the arbitration was commenced on the maritime contracts: "These proceedings have been commenced in relation to all disputes arising out of or in relation to the above contracts, and in particular as regards the outstanding demurrage due under each of the same." Defendant's claim that the parties agreed to a settlement of the Plaintiff's claims in February 2009 prior to the commencement of this action on June 17, 2009 is not relevant since Defendant failed to pay any installments at the end of February, March, April or May as provided in the settlement agreement. In view of Defendant's total breach of its settlement commitment, Plaintiff is entitled to commence arbitration on the underlying contracts. See Declaration of Marie Hyacinth Victoria Brittenden dated

August 7, 2009.

Defendant's motion to vacate the maritime attachment is denied.

IT IS SO ORDERED.

Dated: New York, New York
August 17, 2009



Robert P. Patterson, Jr.
U.S.D.J.

Copies of this Order faxed to:

George Michael Chalos
Chalos & Co., P.C.
123 South Street
Oyster Bay, NY 11771
Tel: (516) 714-4300 x3040
Fax: (866)702-4577

Jeremy O. Harwood
Blank Rome LLP
The Chrysler Building
405 Lexington Avenue
New York , NY 10174
Tel: (212)885-5000
Fax: (212)885-5001